

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 165

BY SENATOR MAYNARD

[Originating in the Committee on the Judiciary;

reported on January 25, 2018]

1 A BILL to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as
2 amended, relating generally to authorizing various health agencies to promulgate certain
3 legislative rules as filed, modified, and amended by the legislature; authorizing various
4 health agencies to repeal certain legislative rules; authorizing the Department of Health
5 and Human Resources to promulgate a legislative rule relating to hospital licensure;
6 authorizing the Department of Health and Human Resources to promulgate a legislative
7 rule relating to food establishments; authorizing the Department of Health and Human
8 Resources to promulgate a legislative rule relating to public water systems; authorizing
9 the Department of Health and Human Resources to promulgate a legislative rule relating
10 to emergency medical services; authorizing the Department of Health and Human
11 Resources to promulgate a legislative rule relating to West Virginia clearance for access:
12 registry and employment screening; authorizing the Department of Health and Human
13 Resources to promulgate a legislative rule relating to development of methodologies to
14 examine needs for substance use disorder treatment facilities within the state; authorizing
15 the Department of Health and Human Resources to promulgate a legislative rule relating
16 to collection and exchange of data related to overdoses; authorizing the Department of
17 Health and Human Resources to promulgate a legislative rule relating to child care centers
18 licensing; authorizing the Department of Health and Human Resources to promulgate a
19 legislative rule relating to family child care facility licensing requirements; authorizing the
20 Department of Health and Human Resources to promulgate a legislative rule relating to
21 family child care home registration requirements; authorizing the Department of Health
22 and Human Resources to promulgate a legislative rule relating to informal and relative
23 family child care home registration requirements; authorizing the Department of Health
24 and Human Resources to promulgate a legislative rule relating to out-of-school-time child
25 care center licensing requirements; authorizing the Department of Health and Human
26 Resources to promulgate a legislative rule relating to pilot program for drug screening of

27 applicants for cash assistance; directing the Department of Health and Human Resources
28 to repeal a legislative rule relating to regulation of opioid treatment programs; authorizing
29 the Health Care Authority to promulgate a legislative rule relating to financial disclosure;
30 and repealing a Health Care Authority legislative rule relating to certificate of need.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

§64-5-1. Department of Health and Human Resources.

1 (a) The legislative rule filed in the State Register on July 28, 2017, authorized under the
2 authority of §16-5B-8 of this code, modified by the Department of Health and Human Resources
3 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on August 30, 2017, relating to the Department of Health and Human Resources
5 (hospital licensure, 64 CSR 12), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2017, authorized under the
7 authority of §16-6-2 of this code, modified by the Department of Health and Human Resources to
8 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
9 Register on October 25, 2017, relating to the Department of Health and Human Resources (food
10 establishments, 64 CSR 17), is authorized.

11 (c) The legislative rule filed in the State Register on July 28, 2017, authorized under the
12 authority of §16-1-9a of this code, modified by the Department of Health and Human Resources
13 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
14 Register on October 25, 2017, relating to the Department of Health and Human Resources (public
15 water systems, 64 CSR 3), is authorized with the following amendment:

16 On page six, by striking out all of subdivision 8.1. and inserting in lieu thereof a new
17 subdivision 8.1., to read as follows:

18 8.1. A public water system which artificially adjusts fluoride levels shall strive to maintain
19 those levels between 0.6 milligrams per liter and 0.8 milligrams per liter. The optimum target
20 concentration for artificially adjusted fluoride is 0.7 milligrams per liter. If the drinking water of a
21 public water system is found to be outside of the 0.6 to 0.8 milligrams per liter range, the public
22 water system shall make any treatment or operational changes necessary to return the fluoride
23 level to within the range within 24 hours of receiving the analytical result unless doing so is
24 impracticable, in which case, the correction shall be made as soon as possible. A public water
25 system shall identify in its annual report to the Bureau the date and time of each instance where
26 the fluoride levels were found to be outside the target range and how long it took to implement
27 responsive adjustments

28 (d) The legislative rule filed in the State Register on July 28, 2017, authorized under the
29 authority of §16-4C-6 of this code, modified by the Department of Health and Human Resources
30 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
31 Register on December 11, 2017, relating to the Department of Health and Human Resources
32 (emergency medical services, 64 CSR 48), is authorized.

33 (e) The legislative rule filed in the State Register on July 27, 2017, authorized under the
34 authority of §16-49-9 of this code, relating to the Department of Health and Human Resources
35 (West Virginia clearance for access: registry and employment screening, 69 CSR 10), is
36 authorized with the following amendment:

37 On page five, by striking out all of subdivision 7.3.a. and inserting in lieu thereof a new
38 subdivision 7.3.a., to read as follows:

39 7.3.a. The passage of time. The length of time an applicant is barred from employment in
40 direct access care starts from the date of conviction or the date of release from the penalty
41 imposed, whichever is later.

42 (f) The legislative rule filed in the State Register on July 28, 2017, authorized under the
43 authority of §16-53-3 of this code, modified by the Department of Health and Human Resources

44 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
45 Register on October 25, 2017, relating to the Department of Health and Human Resources
46 (development of methodologies to examine needs for substance use disorder treatment facilities
47 within the state, 69 CSR 13), is authorized.

48 (g) The legislative rule filed in the State Register on July 28, 2017, authorized under the
49 authority of §16-5T-5 of this code, modified by the Department of Health and Human Resources
50 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
51 Register on December 11, 2017, relating to the Department of Health and Human Resources
52 (collection and exchange of data related to overdoses, 69 CSR 14), is authorized.

53 (h) The legislative rule filed in the State Register on July 27, 2017, authorized under the
54 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
55 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
56 Register on October 4, 2017, relating to the Department of Health and Human Resources (child
57 care centers licensing, 78 CSR 1), is authorized.

58 (i) The legislative rule filed in the State Register on July 28, 2017, authorized under the
59 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
60 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
61 Register on October 4, 2017, relating to the Department of Health and Human Resources (family
62 child care facility licensing requirements, 78 CSR 18), is authorized.

63 (j) The legislative rule filed in the State Register on July 27, 2017, authorized under the
64 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources
65 (family child care home registration requirements, 78 CSR 19), is authorized.

66 (k) The legislative rule filed in the State Register on July 28, 2017, authorized under the
67 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources
68 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
69 Register on December 11, 2017, relating to the Department of Health and Human Resources

70 (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

71 (l) The legislative rule filed in the State Register on July 28, 2017, authorized under the
72 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources
73 (out-of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

74 (m) The legislative rule filed in the State Register on July 28, 2017, authorized under the
75 authority of §9-3-6 of this code, modified by the Department of Health and Human Resources to
76 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
77 Register on December 11, 2017, relating to the Department of Health and Human Resources
78 (pilot program for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

79 (n) The legislative rule effective on October 10, 2013, authorized under the authority of
80 §16-1-4 of this code, relating to the Department of Health and Human Resources (regulation of
81 opioid treatment programs, 69 CSR 7), is repealed.

82 **§64-5-2. Health Care Authority.**

1 (a) The legislative rule filed in the State Register on July 28, 2017, authorized under the
2 authority of §16-29B-8 of this code, modified by the Health Care Authority to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
4 25, 2017, relating to the Health Care Authority (financial disclosure, 65 CSR 13), is authorized
5 with the following amendment:

6 On page nine, by inserting a new section seven to read as follows:

7 **§65-13-7. Exemption.**

8 The provisions of this rule do not apply to the legally authorized practice of medicine by
9 any one or more persons in the private office of any healthcare provider.

10 (b) The legislative rule effective on April 13, 2011, authorized under the authority of §16-
11 2D-3 of this code, relating to the Health Care Authority (certificate of need rule, 65 CSR 7), is
12 repealed.